

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

MILO A. JONES,)	
)	
Plaintiff,)	
)	
v.)	Case No. 08-3288-JAR
)	
(fnu) BOKER and)	
STAN WOFFORD,)	
)	
Defendants.)	

ORDER

This matter comes before the Court upon Plaintiff's Motion for Leave to File an Amended Complaint (Doc. 38). Defendants have not filed a response, and the time to do so has passed.

Federal Rule of Civil Procedure 15 governs the procedure for amending pleadings. A party may amend its pleadings once as a matter of course before a responsive pleading is served.¹ Otherwise, a party may amend only by leave of the court, and such leave shall be freely given when justice so requires.²

Because a responsive pleading has been served, the Court must determine whether to grant Plaintiff leave to amend. The decision to grant leave to amend after the permissive period lies within the discretion of the trial court.³ Refusing leave to amend is generally only justified upon a showing of undue delay, undue prejudice to the opposing party, bad faith, or futility of

¹ Fed. R. Civ. P. 15(a).

² *Id.*

³ *Stewart v. Bd. of Comm'rs*, 216 F.R.D. 662, 664 (D. Kan. 2003) (citing *Woolsey v. Marion Labs., Inc.*, 934 F.2d 1452, 1462 (10th Cir. 1993)).

the amendment.⁴

There is no showing before the Court of undue delay, undue prejudice, bad faith, or futility of the amendment. Additionally, the failure to file a response brief typically means, “the motion will be considered and decided as an uncontested motion, and ordinarily will be granted without further notice.”⁵ Therefore, the Court finds the instant motion should be granted.

Accordingly,

IT IS THEREFORE ORDERED that Plaintiff’s Motion for Leave to File an Amended Complaint (Doc. 38) is hereby granted. The Clerk shall file Plaintiff’s Amended Complaint (Doc. 38-1) as a separate document, at which time it will be deemed served upon Defendants.

IT IS SO ORDERED.

Dated this 24th day of November, 2009, at Topeka, Kansas.

s/ K. Gary Sebelius
K. Gary Sebelius
U.S. Magistrate Judge

⁴ *Id.*

⁵ D. Kan. R. 7.4.